

AUG 08 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATRICK M. MULLAN,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant - Appellee.

No. 07-35307

D.C. No. CV-06-00047-RRB

MEMORANDUM *

Appeal from the United States District Court
for the District of Alaska
Ralph R. Beistline, District Judge, Presiding

Submitted August 5, 2008**
Anchorage, Alaska

Before: D.W. NELSON, TASHIMA, and FISHER, Circuit Judges.

Patrick Mullan Jr. appeals the district court's order affirming the
Commissioner of Social Security's denial of Mullan's application for disability

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

insurance benefits under Title II of the Social Security Act. We affirm the Commissioner's decision because it is supported by substantial evidence, and the Commissioner applied the correct legal standards. *See Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir. 2004).

The Administrative Law Judge ("ALJ") applied the five-step sequential analysis mandated by 20 C.F.R. § 404.1520. Mullan does not challenge the conclusions reached at Steps One and Two. At Step Three, Mullan failed to demonstrate that his combination of impairments met or equaled an impairment listed in 20 C.F.R. pt. 404, subpt. P, app. 1. At Step Four, the ALJ properly found that Mullan retained the residual functional capacity to perform his past relevant work as a chemical dependency counselor. Because Step Five is required only where a claimant cannot perform his past relevant work, the ALJ properly decided not to proceed to this step. *See* 20 C.F.R. § 404.1520(a)(4)(iv).

AFFIRMED.